

jAAA

Date of Decision: 30.1.1996

FOR APPROVAL AND SIGNATURE

THE HON'BLE MR. JUSTICE N N MATHUR

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?
5. Whether it is to be circulated to the Civil Judge....

Mr N D Nanavaty, Advocate for the petitioners

Mr N K Pahwa for Mr P M Thakkar, Advocate for the respondents

CORAM : N N MATHUR, J.
(January 30, 1996)
ORAL COMMON JUDGMENT

By this common judgment, both the Special Civil Applications are disposed of.

2. By way of petition, the petitioners in Special Civil Application No.4682/90 seek direction to respondent No.1 to make payment as per the directions issued by respondent No.2-District Panchayat as per Annexure 'A'. The say of the petitioners is that in the year 1986-87 and 1987-88, there was drought in Saurashtra area including District Junagadh and as such the petitioner started cattle camps as per the Government scheme and subsidies were being

paid to the organizers of the cattle camps. Petitioner No.1 was the sarpanch of the respondent No.1-Gram Panchayat. The Gram Panchayat had adopted a Resolution to arrange cattle camps in order to help the drought affected people in the area. The decision was taken by the Gram Panchayat to collect ad-hoc funds for organising cattle camps by taking amount of loan without interest from certain persons. Accordingly petitioners No.1,2 and 3 paid Rs.10,000/-, 54,000/- and 35,000/- respectively. It is further stated that petitioner No.1 subsequently paid Rs.30,000/- and 22,000/- respectively. On 6th November, 1988, one Nanajibhai Narsibhai was elected as sarpanch. It is alleged that the said Nanajibhai Narsibhai belongs to rival group. In spite of repeated representations and directions by the Deputy District Development Officer of the Junagadh District Panchayat, the Ajab Gram Panchayat-respondent No.1 is not making the payment to the petitioners on the ground of group rivalry. It is further stated that respondent No.2-District Panchayat issued notice to the sarpanch Nanajibhai Narsibhai, directing him to make the payment as per the directions, failing which the District Panchayat will be compelled to take action against the sarpanch of respondent No.1 under section 49 of the Gujarat Panchayat Act, 1961. The said order is said to have been challenged by the said Sarpanch before this Court by way of filing Special Civil Application which has been registered as Special Civil Application No.831/90. An affidavit has been filed by the respondent No.1-Panchayat, stating that the claim of the petitioner is false and the same has been disputed by them from the beginning. It is further stated that the petitioners have prepared false record by issuing false receipts and false vouchers, and that on a close scrutiny of the record, it appears that the persons to whom the alleged receipts were issued by the petitioners have not at all given any money for running the cattle camp. Various serious allegations of forgery and preparation of false record has been made in this respect.

3. Before proceeding further, it will be convenient to take the facts of Special Civil Application No.831/90. The said Special Civil Application has been filed by Mr Nanajibhai Narsibhai seeking direction to quash notice dated 9.1.90 - Annexure 'E', whereby a direction has been given to the Panchayat to release amount of Rs.1,71,500/in favour of private parties who cla....

Ajab Gram Panchayat - respondent No.1.

4. No reply to this petition has been filed by the District Development Officer.

5. From the narration of the facts of both these Special Civil Application, it clearly appears that there is serious dispute with respect to the payment of Rs.1,71,500/-, which cannot be decided in the writ jurisdiction. However, instead of relegating the petitioners of S.C.A. No.4682/90 to file a Civil Suit, it would be appropriate to direct the respondent-District Development Officer to hold a fresh enquiry after giving opportunity to the concerned parties and pass an appropriate order.

6. In view of the aforesaid, both the Special Civil Applications being No.4682/90 and 831/90 are allowed and the following order is passed:

(i) In Special Civil Application No.831/90, the order dated 9.1.1990 at Annexure 'E' is hereby quashed and set aside.

(ii) In Special Civil Application No.4682/90, it is directed that the District Development Officer, Junagadh to hold an enquiry with respect to the amount due to the petitioners. For this purpose, he will summon the entire relevant records and will give a fair opportunity to the petitioners, Mr Nanagibhai Narsibhai and the present office bearers of the Ajab Gram Panchayat - respondent No.1.

(iii) The parties shall appear before the District Development Officer on 6.3.1996.

.....T.....T.....J.....T.....T.....T.....T.....J.....T

Rule made absolute to the aforesaid extent. There shall be no order as to costs.

...